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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,110	04/14/2004	John Wicdel	34082	3109
23589	7590	10/30/2007		
HOVEY WILLIAMS LLP 2405 GRAND BLVD., SUITE 400 KANSAS CITY, MO 64108			EXAMINER NGUYEN, JIMMY T	
			ART UNIT 3725	PAPER NUMBER
			MAIL DATE 10/30/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/709,110

Applicant(s)

WIEDEL, JOHN

Examiner

Jimmy T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11, 12 and 14-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11, 12 and 14-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/22/07.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

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DETAILED ACTION

Response to Amendment

The amendment filed on August 22, 2007 has been entered and considered and an action on the merits follows.

Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on August 22, 2007 prompted the new ground(s) of rejection presented in this Office action. Accordingly, the allowability of claims 15-18 noted in the last Office action has been withdrawn. **THIS ACTION IS MADE FINAL.** See MPEP § 609.04(b).

Information Disclosure Statement

Receipt is acknowledged of an Information Disclosure Statement (I.D.S.), filed August 22, 2007, which I.D.S. has been placed of record in the file. An initialed, signed, and dated copy of the form PTO-1449 is attached to this Office action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11-12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Brouse (US 4,577,554).

Brouse discloses a knotting device (12) including a knotting assembly (fig. 7) having a gripper (118), a rotatable knotter (56 and fig. 4) operable to twist knot two adjacent wire sections (30, 32)), a cutting element (80, 82 and fig. 5), and a shiftable cover (60) located adjacent the knotter (fig. 7) for maintain the wire sections within the knotter during feeding of the wire sections (fig. 6) and thereafter movable to a wire clearing position permitting passage of the twisted knotted wire sections from the knotter (col. 6, lines 62-67), an operator assembly (38) for timed operation of the gripper (col. 6, line 53 to col. 7, line 2. Note that this paragraph discloses that a reverse rotation of the operator assembly (38) (col. 6, line 55) also leads to an operation of the gripper (col. 7, lines 1-2), the knotter (col. 5, lines 1-29), the cutting element (col. 5, line 63-col. 6, line 3), and the cover (col. 6, lines 54-67), a single drive assembly (36) coupled with the operator assembly (fig. 2) for affecting the timed operation, the operator assembly including a pivotal shaft assembly (38) and operator bodies for the gripper, knotter, cutting element and cover (fig. 3). Note that the Examiner defined the operator bodies are the elements that are operable connected the shaft assembly to the gripper, knotter, cutting element and cover such as (64, 80, 84, 92, 112 ..). The single drive assembly (36) supplies driving power to the gripper, knotter, cutting element and cover (fig. 2) and the shaft assembly (38) effecting the timed operation by rotating in a single direction (col. 5, line 1-col. 7, line 17).

Regarding claim 12, the drive assembly comprising a piston and cylinder assembly (48) including a reciprocating piston rod (fig. 2) operable connected with the operator assembly (fig. 2).

Regarding claim 14, the cover (60) is attached to a mount for pivotal movement (col. 6, lines 64-67), and the cover including a spring (117) operably coupled to the mount (fig. 5) for

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biasing the cover to a wire maintain position (fig. 5), the cover operator body (112) configured to engage the cover mount (col. 6, lines 62-67) to move the cover.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brouse (US 4,577,554) in view of Nelson et al. (US 2,963,958).

Brouse discloses the invention substantially as claimed as set forth above. Brouse further discloses the knotter rotatably mounted on an elongated support body (figs 3 and 4) and an upright frame member (34) proximal to the knotter (figs. 2 and 3). Brouse does not expressly disclose a pivoting range of the cover at least about 90 degree. However, the patent to Nelson et al. discloses a knotting device with a capability of pivoting mechanisms through an arc of slightly more than 180 degree (col. 10, lines 61-62). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to allow Brouse's cover the particular pivoting range in order to afford convenient access to the units for cleaning or adjustment (col. 10, lines 55-57).

Response to Arguments

Applicant's arguments filed August 22, 2007 have been fully considered but they are not persuasive.

Applicant argued that Brouse does not shown or suggested the recited structure in claim 11 because the timed operation of Brouse requires reverse rotation of the shaft and it is controlled by unreliable components that are susceptible to failure and poor function. With respect to Applicant's assertions, this argument has been considered. However, claim 11 does not recite any specific structure that is distinguished from the Brouse patent. Brouse relies on a reverse rotation of shaft (38) to effect timed operation of the gripper (118), twister pinion (56), cutter (80) and cover (60) (as admitted by the Applicant on page 2, lines 11-13 of the Remarks/Arguments). Therefore, Brouse discloses the shaft assembly (38) effecting the timed operation by rotating in a single direction (i.e. reverse direction). According, Brouse discloses the invention substantially as claimed as set forth in the 35 U.S.C. 102 (b) above. Claim 11 needs to be more specific in the structural inter-relationship between the elements in order to overcome the Brouse reference and to show that the invention does not require unreliable components as suggested by Brouse.

As to claim 15, the allowability of claim 15 has been withdrawn and rejected based on Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) as explained above.

Conclusion

Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on August 22, 2007 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy T. Nguyen whose telephone number is (571) 272-4520. The examiner can normally be reached on Monday-Thursday 7:30am-5:00pm with alternating Friday 7:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (571) 272- 4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JTNguyen
October 24, 2007



JIMMY T. NGUYEN
PRIMARY EXAMINER